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Letter dated 14 April 2003 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 14 August 2002 (S/2002/961).

The Counter-Terrorism Committee has received the attached supplementary report from Fiji, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

03-33965 (E) 140503

Annex

Note verbale dated 3 April 2003 from the Permanent Representative of Fiji to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

The Permanent Representative of the Republic of the Fiji Islands to the United Nations presents his compliments to the Chairman of the Special Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism and has the honour to submit herewith the second report of the Government of Fiji, both electronically and in hard copy (see enclosure).

Enclosure

Fiji's second round of responses based on the letter dated 8 August 2002*

The Fiji Anti-Money Laundering Unit (FAMLC) has undertaken the responsibilities of addressing the questions raised under paragraphs 1 (a), (b), (c) and (d)

- **Sub-paragraph 1 (a):**
  - Please provide a progress report on the action taken by the Finance Ministry and the Reserve Bank to prevent and suppress the financing of terrorists, including those listed by the UN Security Council (pursuant to Resolutions 1267 and 1333, as amended by 1390, as distinct from Resolution 1373).

RBF Guidelines for License came into effect on 1 January 2001, predating UNSC Res 1373. The Guidelines is attached

The Reserve Bank of Fiji[1] has been working closely with the other relevant authorities particularly with the Anti-money Laundering Officials Committee in an effort to develop strategies to implement the requirements of the United Nations Security Council Resolutions to prevent and suppress the financing of terrorists, namely those requirements that involve the financial institutions. The Government of Fiji acknowledges the need to work against money laundering and financing of terrorism and these are pronounced in statements in the Government Budget address for work over the next year.

The RBF will be working on specific measures to combat the financing of terrorism within the financial system in Fiji. In contrast the RBF has implemented a number of anti-money laundering measures, which are detailed in the first Fiji CTC report 2002.

The Banking Act of Fiji provides the RBF with appropriate powers to ensure that terrorists and terrorist funds are not part of a licensed financial institution's ownership structure, directors and senior management.

The RBF has been involved with various AML/CFT evaluation project and has provided important contributions, namely towards the IMF Article IV Mission, Paragraph 8 of the IMFC Communiqué, IMF Pacific project on Fiji, ADB TA Regional Project on AML/CFT, and the APG Mutual Evaluation Exercise. Appropriate recommendations of these assessment reports that affect the financial system are being evaluated by the Reserve Bank towards developing an action plan to implement the recommendations. This evaluation is being made in close consultation with the Anti-money Laundering Officials Committee (FAMLC).

There are a number of specific preventive measures for the financial institutions that the RBF wishes to review and implement in view of the proposed AML/CFT Assessment Methodology by the IMF and the proposed review of the FATF 40 Recommendations.

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* Annexes I and II have been attached hereto. Annexes III to V are on file with the Secretariat and are available for consultation.

[1] Hereafter the acronym "RBF" is used.

- **Sub-paragraph 1 (b):**
  - Please provide an outline how Fiji intends to implement the International Convention for the Prevention of the Financing of Terrorism that is stated to be in the process of ratification.
  - According to the report, Fiji is anticipating a broader reform package that accommodates all relevant issues of the Resolution. Please outline the particular provisions of this package that contribute to compliance with the Resolution.

Broader reforms:

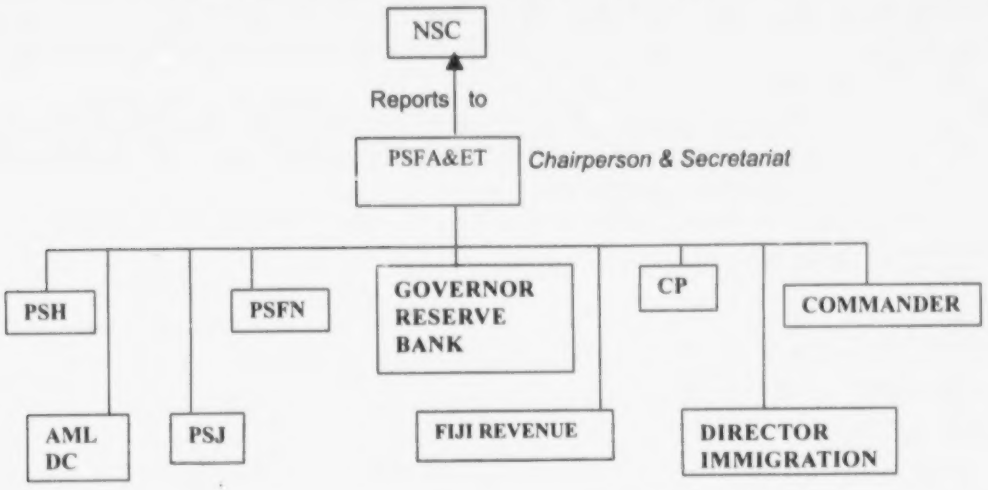
(i). **Executive Actions**

- Cabinet decision is required for treaty ratification

ii. Institutional

- the CTC officials committee is now established under the aegis of National Security Council (NSC) to undertake the intended reforms required under SC 1373. As shown in the chart, the Officials Committee comprises of the sectoral Heads of the three CLAGs (Combined Law Agency Groups) namely; Commissioner of Police, Commander, Solicitor General, Permanent Secretary for Justice, Governor Reserve Bank, Permanent Secretary for Foreign Affairs & External Trade, Permanent Secretary for Finance & National Planning, Permanent Secretary for Home Affairs.
- The Officials Committee prepares all necessary paper works, including ratification (through Cabinet) process.

STRUCTURE OF THE CTC OFFICIALS COMMITTEE



- *the new system* improves *the* reporting *procedures* to *the* NSC (vis-à-vis Commissioner of Police, *Minister for Foreign Affairs & External Trade, direct to the NSC*)

Measures to guard against terrorist financing are already underway in Fiji despite the as-yet non-ratification of the Convention on Terrorism Financing. The various guidelines issued by the RBF provide an exhaustive coverage over Fiji's financial sector. The RBF undertakes internal supervisory role of all incoming proceeds for purposes of due diligence and establishment of illegal proceeds. Cabinet has also recently decided to extend the RBF's supervisory ambit to include the prudential supervision of the Fiji National Provident Fund (FNPF). The RBF organizational chart (annex 1) shows the Bank's broad supervisory role including non-bank and regulatory bodies in the finance sector.

iii. **Legal** —

- **Anti-Terrorism Bill** is in the early stages of the legislative agenda. The Bill will legitimize the establishment of the Financial Intelligence Unit (FIU) to report on suspicious transactions and financial services to, or linked with terrorists or other undesirable elements. The RBF and the Fiji Police will jointly manage the FIU.
- **Extradition Bill, Passports Bill**, review of the ***Immigration Act***, ***Insurance Act***, a proposed NGO legislation.
- **Charitable Trust Act (Cap 67)** is being reviewed in relation to those who engage in public advocacy as this Act controls all provisions to charitable organizations. There is no provision to monitor funds channeled to religious organizations. The present review by relevant authorities aims to appraise the registration and activities of religious and charitable organizations.

- **Mutual Assistance in Criminal Matters** — amendment is being mooted to align it with the legislative framework in Australia and other jurisdictions that have enacted similar legislation to improve mutual cooperation that currently involves exchange of letters of mutual recognition.
- Close working relationships with the Pacific Islands Forum (PIF) region by encouraging all members to enact the mutual assistance in criminal matters, proceeds of crime, and extradition legislations.
- PIF model laws are being crafted with a view to harmonizing legislation to improve implementation.

iv. **Technical** — Equipment upgrades, IT network, Interpol linkup, shared database, and similar collaborative ventures within and beyond the region are currently being pursued, including cross-sectoral technical assistance.

- **Sub-paragraph 1 (c):**
  - Please outline the guidelines of the Reserve Bank or any other measures that provide for the freezing of funds, financial assets or other economic resources belonging to terrorists.

    - Please refer to the RBF Money Laundering Guidelines.

The Reserve Bank of Fiji's banking supervision policy guideline for licensed financial institutions to counter money laundering sets the minimum requirements relating to the reporting of suspicious transactions, systems and trading to prevent money laundering, minimum identification, record keeping and reporting procedures; and various responsibilities of a bank or credit institution, law enforcement authorities, and the Reserve Bank of Fiji with regard to countering money laundering. The policy guideline was developed with a view to meeting the 40 recommendations of the Financial Action Task force (FATF).

Although the policy guideline does not specifically mention measures relating to the financing of terrorism, it required financial institutions to take appropriate measures consistent with the law to deny assistance, sever relations with customer and close or freeze accounts where a financial institution becomes aware that money held on deposit was derived from a criminal activity, or that transactions entered into were criminal in purpose.

The policy guideline provides for identification procedures for transactions conducted on behalf of another, including the requirement to establish the source of funds. Applicants who wish to establish third party or intermediary relations are required under the policy guideline to provide written undertaking with regard to the evidence of principals and the course of funds and also to make reasonable enquiries about transactions passing though client accounts that give cause for concern and to report those transactions if any suspicions are aroused.

Furthermore, consistent with the Basel Core Principles, the licensing procedures implemented by the Reserve Bank ensures that the deposit taking institutions are not owned or controlled by terrorists.

Similar procedures are provided for relations with shell companies/entities including the requirement to obtain satisfactory evidence of the identity of the beneficial owners, directors and authorized signatories of the shell company.

- **Freezing of funds** — powers vested under the Commissioner of Police (Cap 85) to freeze the assets to allow investigators to process the allegations. Therefore, close collaborations between the Governor RBF and Commissioner of Police (CP), through the Officials Committee, to exercise these powers, i.e. monitor, freeze, and dispose.

- How does Fiji propose to meet the requirement of this sub-paragraph, in particular if the funds derive from legitimate sources (as distinct from proceeds of crime) to finance terrorist activities?

- **Legitimate sources** — If Commissioner of Police has reasonable grounds for believing that legitimate sources are being *utilized to finance terrorist activities,* he can use this power under Cap 85 to freeze the funds while investigation proceeds.

- **Sub-paragraph 1 (d):**
  - What legal provisions exist or are proposed to prohibit persons and entities from providing funds, other financial assets and financial services to terrorists?

There is a proposal to resurrect the **Suppression Terrorism Decree (1991)** issued by the Fiji Intelligent Service (FIS), and amended to meet the requirement regarding persons or entities are not to provide funds, other financial services to terrorists.

- Please describe how the statutes governing the conduct of charitable, religious and other entities, that are mentioned in the report, prevent the funds collected for their respective charitable, religious and other purposes from being diverted from their stated purposes, in particular to terrorists.

Role of Auditor General in consultation with the CP in public scrutiny of public funds used by NGOs and other charitable organizations (churches, etc.).

Auditing of accounts is a prerequisite.

Trace of accounts by Ministry of Labour is stated in the Government Titles, Trade United.

Need proper and effective coordination.

- **Sub-paragraph 2 (a):**
  - How does Fiji propose to prevent the recruitment in Fiji to terrorist groups, operating either within its territory or abroad?

Recruitment — the draft **Anti-Terrorism Bill** has specific provisions to prevent the recruitment in Fiji of terrorist groups, operating either within its territory or abroad. Refer to sub-paragraph 1 (b) above. Other security working practices include:

- *Mutual Assistance in Criminal Matters* also includes the free flow of information and healthy exchange of intelligence.
- *The Police Special* Branch under CP, works together with FBI, NZSIS, ASIS, and exchange information on a daily basis.
- Security clearance/*vetting* of all personnel involved with CTC work. Suva branch to do clearance (Positive and negative clearance).

  - Please outline the legal provisions and other measures regulating the possession of, and trade in weapons and explosives.

  Legislation —
  - Arms and Ammunition Act (Cap 188).
  - Explosives Act: Cap 189.
  - Police Act (Cap 85).
  - Any person who wants to own stock, trade in weapons and explosives has to apply for it through CP and pay a fee for the license, renewable on an annual basis.

  Regional initiatives:
  - Honiara Initiative (1998) and the,
  - Nadi Framework (2000)

  deal with common approaches to Gun Control in the South Pacific Region. In pursuit of these initiatives, a survey on small arms stock and method of control in the PIF region was conducted and its results was launched on 2nd April 2003.

- **Sub-paragraph 2 (b):**
  - Are there any steps taken to involve more agencies in vigilance and monitoring operations by the Fiji Police, as referred to in the report?

Further to responses in 2 (a), we report that there is an improvement in the inter-department collaboration as evidenced by the establishment of the Officials Committee representing all

stakeholders. Part of the review of Immigration Laws and compliance, the expulsion of *Brother Majid in February 2003 is a case in point.*

Fiji is a member of the **Interpol** and subscribes to all its rules and regulations.

In collaboration with the FBI, NZSIS, ASIS, we monitor the movements of people suspected with international terrorists organizations.

The identification procedures, transaction monitoring and the reporting of suspicious transaction provisions under the Reserve Bank's banking supervision policy guideline to counter money laundering also extend to clubs, societies, and charitable organizations. Where a financial institution becomes aware of any unusual transaction activities or activity that is dissimilar to, or incompatible with, the charitable organization's known business, the policy guideline requires the financial institution to promptly report the transactions to the relevant law enforcement authorities.

Yes, the Fiji Police, together with the Forum Secretariat, prepared a Memorandum of Understanding with the Combined Law Agency Groups (CLAG), which was signed in Suva by the heads of all the relevant stakeholders on 31 July 2002. The parties to the MOU include only Government Departments or Ministries and Statutory Authorities, which have a role in enforcing the laws of Fiji. The MOU will enable the parties to work more closely with the Police in enforcing the rule of law, especially the particular legislation for which each party is responsible, and requires them to be more vigilant in preventing breaches of those legislation.

The Fiji Police has also instigated and developed a close working relationship with other stakeholders who are not a part of the CLAG. One such agency includes the Private Security companies whom the Police Force assists in keeping the peace and securing their respective places of responsibility.

- **Sub-paragraph 2 (c):**
  - Please provide a progress report on the review of the immigration laws and outline the particular provisions and procedures that contribute to compliance with this sub-paragraph.

  Refer to our response in paragraph 1 (b) above.

- **Sub-paragraph 2 (d):**
  - Does Fiji propose to introduce provisions that prevent its territory from being used for terrorist activities abroad?

    - The existing legislations have by extension prohibits Fiji from being used as a base for terrorist activities abroad.
    - The resurrection of the Suppression of Terrorisms Decree (1991) will include an amendment to this effect.

- **Sub-paragraph 2 (e):**
  - Please provide a progress report on the law review that is being conducted by the Fiji Law Reform Commission. Will this review introduce specific provisions that criminalize terrorist activities?

- We will appraise the status of the Anti-Terrorism Bill once Parliament is seized with this draft legislation, and other related proposed legislation.

- **Sub-paragraph 2 (f):**
  - Please provide a list of countries with which Fiji has concluded bilateral and multilateral treaties, and MOUs on mutual assistance in criminal matters and on extradition.

See the Extradition Bill attached.

- Australia — signed *an MOU* for *assistance in capacity building for* Security and intelligence.
- With others — there are no MOU in place but there does exist international arrangements for capacity building for Law Enforcement Agencies, for example, with the NZSIS, FBI, and Scotland Yard.
- The Pacific Islands Forum (PIF) 1992 Honiara Declaration makes it mandatory for all Members to enact the mutual assistance in criminal matters, proceeds of crime, and extradition legislation. The intention was that once all Members have these legislations in place, bilateral and multilateral treaties and MOUs could be entered into.

  - What is the legal timeframe within which a request for judicial assistance in criminal investigations or criminal proceedings (especially those relating to the financing or other support of terrorist acts) must be met and how long, on average, does it actually take in practice to implement such a request in Fiji?

- We respond to these requests within reasonable time, albeit, there is no legal timeframe established but the courts have the powers to decide. Criminal investigations are *done* instantly when *such* crime is committed. It is given a high priority, it is dealt with expeditiously because of the *low volume* of terrorist related requests *received by the Fiji Police.*

- **Sub-paragraph 2 (g):**
  - What measures have been taken to prevent the counterfeiting, forgery or fraudulent use of identity papers and travel documents and what provisions exist for the punishment of persons who do so?

- Refer to the Passport (attached) and Immigration Bills. The Immigration Department is now looking at improving the security features of the Fiji passports issued. First and foremost, we have now tightened security of unused or lost travel documents adopting best practices from other jurisdictions.
- The Immigration Bill that will be presented to Parliament later in the year will criminalize people smuggling and with commensurate level of punishments.
- Yachts
    - The *Fiji Islands Customs Service has plans in place to obtain* a boat/ship *for open sea voyage* to undertake periodic visits to marinas and tourist resorts for such purpose. These visits are made in collaboration with the Fiji Police, who are present on board to assist Customs Officials in investigations and arrests.
    - In addition the Fiji Navy under the Maritime CLAG concept are responsible for making maritime arrests and carrying out tasks dictated by intelligence *and other responsibilities outlined in the Maritime CLAG Standard Operations Procedures.*

- Visits to Fiji by yachts or private aircraft (for example, to refuel) may give rise to issues under paragraph 2(g) of the resolution. How are such issues addressed by Fiji?

- Airplanes and ships making refuel stopovers are given separate docking bays. Crews are closely supervised as to the times they can leave and return to the terminals.

- **Sub-paragraph 3 (a), (b) and (c):**
    - Is there an institutional mechanism for implementing these sub-paragraphs?

        - The South Pacific Chiefs of Police Conference (SPCPC) are interconnected with the Australian Federal Police sponsored dedicated Police Intranet to improve and accelerate the exchange of operational information and intelligence among members.

- **Sub-paragraph 3 (d):**
    - The CTC would welcome a report, in relation to the relevant international conventions and protocols relating to terrorism, on the progress made by Fiji in:
        - becoming a party to the instruments to which it is not yet a party; and
        - enacting legislation, and making other necessary arrangements, to implement the instruments to which it has become a party.

      Further to our response under paragraph 1 (b), the Civil Aviation Act (1994) implements three of the four anti-terrorism conventions that Fiji has ratified. The remaining conventions and protocols are being looked at by the Officials Committee with a view to appropriate executive actions. In the meantime the scope of the draft

Anti-Terrorism Bill could well encompass issues in the other 8 sectoral terrorism conventions to which Fiji is not yet a party.

- **Sub-paragraph 3 (e):**
  - Have the crimes set forth in the relevant international conventions and protocols been included as extraditable offences in the bilateral treaties to which Fiji is a party?

The *Extradition Bill* has been introduced in Parliament, which aims to improve on the existing legal regime of concluding MOUs with other countries extend the scope for extradition and modernize extraditable offences to facilitate extradition. A copy of the Bill is attached.

- **Sub-paragraph 3 (f):**
  - Please provide a progress report on the steps taken to meet the requirements of this sub-paragraph.

Refer to the Extradition Bill. In addition the Immigration Bill that is currently being drafted is well poised to address the requirements of this paragraph.

- **Sub-paragraph 3 (g):**
  - What is the legal basis for extradition? Does a law govern this, by treaties, or both? Are claims of political motivation recognized as grounds for refusing extradition of alleged terrorists?

    - Both, by treaties and law. Refer to the Extradition Bill.

- **Paragraph 4:**
  - Has Fiji addressed any of the concerns expressed in paragraph 4 of the Resolution?

The Law Enforcement Agencies and Regional Police network are collaborating with neighboring jurisdictions on the exchange and processing of information on crimes, on legislation, and other matters relating to security issues.

The Extradition Bill forms part of the composite legislation framework together with the other materials "Mutual Assistance" and "Proceeds of Crimes" Acts — with specific focus on the substance of this paragraph.

  - Could Fiji please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contributing to compliance with the Resolution.

The organization charts of the Fiji Police, RBF, etc. are in Annex I.

We also attached two further documentations relating to FATF: the self-assessment questionnaire and the Draft Fiji Anti-Money Laundering Measures, which is marked "strictly confidential". We request that these documents are kept confidential.

- Please provide a copy of the Suppression of Terrorism Decree 1991.

Hard Copy is attached, along with the Extradition Bill, and the Passports Bill.

- The relevant web sites:

Reserve Bank of Fiji www.reservebank.gov.fj
Fiji Customs Service www.customs.gov.fj
Fiji Parliament www.parliament.gov.fj
Ministry of Foreign Affairs: www.foreignaffairs.gov.fj

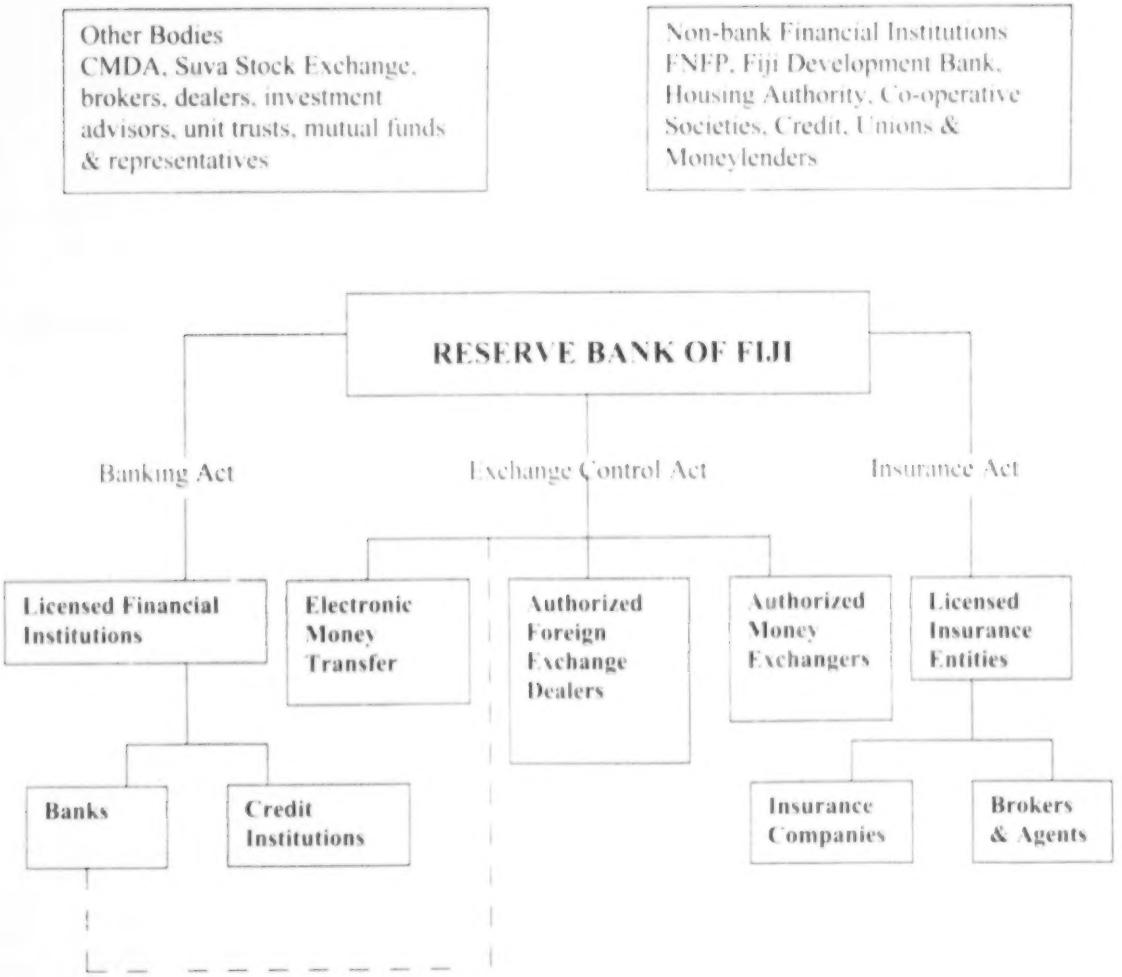
Annexes*

I. Organization Chart of the Reserve Bank of Fiji.
II. Organization Chart of the Fiji Police.
III. RBF Money Laundering Guidelines.
IV. Passports Bill, Extradition Bill.
V. Anti Money Laundering Measures.

* Annexes I and II have been attached hereto. Annexes III to V are on file with the Secretariat and are available for consultation.

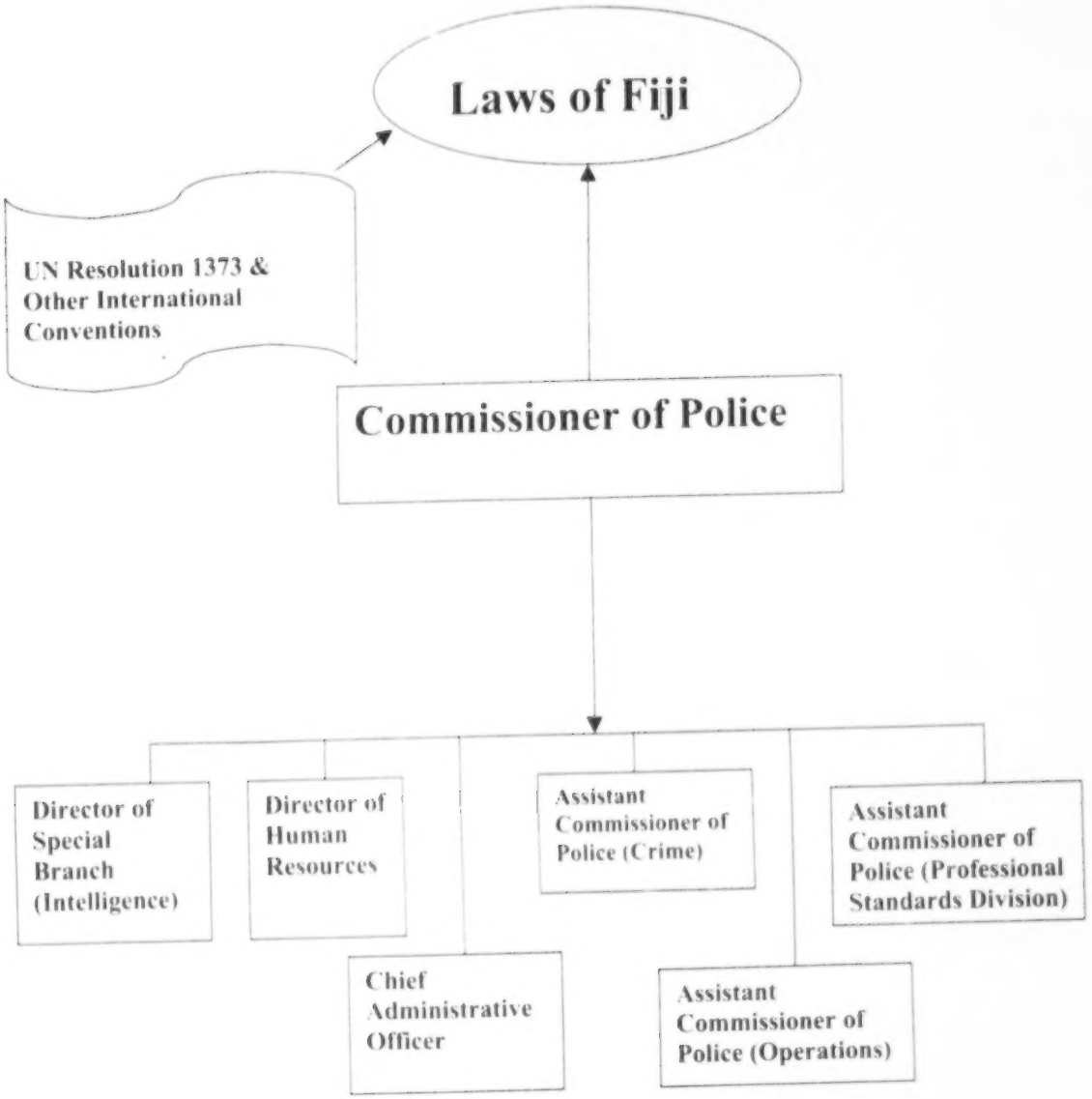
Annex I

THE FIJI FINANCIAL SYSTEM AND RESERVE BANK OF FIJI'S REGULATORY FRAMEWORK



Annex II

POLICE ADMINISTRATIVE MACHINERY


Laws of Fiji
UN Resolution 1373 & Other International Conventions
Commissioner of Police
Director of Special Branch (Intelligence)
Director of Human Resources
Chief Administrative Officer
Assistant Commissioner of Police (Crime)
Assistant Commissioner of Police (Operations)
Assistant Commissioner of Police (Professional Standards Division)